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ART UNIT	PAPER NUMBER
3628	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/741,956	LEE ET AL.	
	Examiner	Art Unit	
	Akiba K. Robinson-Boyce	3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 October 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4 and 6-11* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4 and 6-11* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *11/7/07*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Status of Claims

1. Due to communications filed 10/17/07, the following is a non-final office action. Claim 1 has been amended. Claim 5 is cancelled. Claims 1-4 and 6-11 are pending in this application and have been examined on the merits. The previous rejection has been maintained. Claims 1-4 and 6-11 are rejected as follows.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 recites the limitation "said internal market share model" in line 16. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1, 6, are rejected under 35 U.S.C. 103(a) as being unpatentable over Ouimet et al (US 6,078,893), and further in view of Garg, (US 6,044,357)

As per claim 1 Ouimet et al discloses:

Creating, using the computer system, a plurality of demand groups..., further wherein each demand group, is a set of at least one product, and wherein at least one of the demand groups is a set of at least two products, (col. 5, lines 45-64, [shows demand is described for each item in a given group where the product is represented by the item, in this case, one of the demand groups being a set of at least two products is inherent since Ouimet et al discloses that "each item in a given group" implies that there are more than one items in a group since the sales of "one" item can depend upon the parameters of all the other items]);

Creating, using the computer system, a demand group sales model as a function of price wherein said demand group sales model models sales for each demand group, (col. 6, lines 5-11, [shows a one-dimensional demand model which scales the amount of sales, in this case, the variables are simply the prices {p},and the demand parameters qi scales the amount of sales and gi, which describes the sensitivity of the item to price]),

further wherein said demand group sales model provides a single model for modeling sales of all of the products in each said demand group, (Col. 6, lines 12-15, shows more complicated models where a demand model which the is a nonlinear, cross-correlation between the variables of different items, which represent products);

Creating, using the computer system, said product sales model by combining said demand group sales model and said internal market share model, wherein said product sales model models sales for individual products, further wherein said product sales model combines said demand group sales model and said internal market share model to produce said product sales model for individual products, (Col. 6, lines 63-64, where the user selects a figure-of-merit function to be used to tune the demand model to the sales history, thereby creating a resulting demand model that conforms to the portions of the sales history data that shows a strong trend, and conform to the external market information when the corresponding portions of the sales history data show noise as shown in the abstract, lines 13-17, w/ Col. 6, lines 12-15, shows a demand model which the is a nonlinear, cross-correlation between the variables of different items, which represent individual products);

Ouimet et al does not specifically disclose wherein each demand group is a user defined group of highly substitutable products, but does disclose defining a new market model that represents and describes how the demand parameters are expected to vary, where the demand parameters relate to the products in each demand group in col. 6, lines 17-25.

However, Garg discloses:

wherein each demand group is a user defined group of highly substitutable products, (Col. 13, line 65, shows inventory maintenance is implemented for products which means that these products are replaceable through inventory stock, w/ Col. 14, lines 55-58 and col. 15 lines 17-18 and lines 24-26, shows a computer-implemented

method where there is a selection of a first marketing mix, a selection of another marketing mix, and then the identification of which marketing mix generates the largest profit/loss, in this case, one marketing mix for products can be substituted for another marketing mix for the highest profit or loss outcome, also, in this case, since the method is computer-implemented, this suggests that a user is operating a computer to process the data and to achieve the acquired results, thereby suggesting that a user defines the groups through the selection of marketing mixes which leads to the identification of a marketing mix). Garg discloses this limitation in an analogous art for the purpose of showing that products within marketing mixes are interchangeable.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention for each demand group to be a group of highly substitutable products with the motivation of having the ability to replace the products when needed.

Ouimet et al does not specifically disclose the following, but does disclose defining a new market model that represents and describes how the demand parameters are expected to vary, where the demand parameters relate to the products in each demand group in col. 6, lines 17-25:

Creating, using the computer system, a market share model wherein said market share model determines the fraction of the sales of each demand group comprised by each product, however does disclose defining a new market model that represents and describes how the demand parameters are expected to vary, where the demand parameters relate to the products in each demand group in col. 6, lines 17-25.

However, Garg discloses:

creating, using the computer system, a market share model wherein said market share model determines the fraction of the sales of each demand group comprised by each product,, (col. 5, lines 38-41, [market share model to characterize the demand distribution for each brand, in this case, the group is represented by the brand, and the demand distribution represents a different demand resulting from sales for each product. This demand distribution will therefore vary for each brand, and therefore represents fraction of the sales]. In addition, the sales are internal since the demand groups are by a particular brand, which means that sales do not have to go to an external source for another brand). Garg discloses this limitation in an analogous art for the purpose of showing that market share models are used to set base stock levels for inventory management.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to create a market share model for each product in each demand group with the motivation of providing a representation of how the demand distribution is represented through products.

As per claim 6, Ouimet et al discloses:

Defining an equivalizing factor for the products of each demand group, (Col. 4, line 66-Col. 5, line 6).

6. Claims 3-4, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chavez et al, (US 6,684,193), and further in view of Ouimet et al, (US 6,078,893).

As per claim 3, Chavez et al discloses:

Computer program instructions which, when executed by a computer, cause the computer to generate an econometric engine for modeling sales as a function of price, (Col. 7, lines 5-10 and lines 58-62, shows using the economical model to balance the amount of money brought in from sales against the costs).

A imputed variable generator for generating imputed econometric variables; (col. 8, lines 22-27, [consumption distribution imputed {inferred} from components]);

A coefficient estimator coupled to the imputed variable generator, and wherein imputed variables generated by the variable generator are used by the coefficient estimator to create a demand group sales model as a function of price, wherein said demand group sales model provides a single model for modeling sales of all of the products in each said demand group, wherein each said demand group is a user defined group of highly substitutable products, ([col. 15, lines 6-14, [shows an example of how the revenue coefficient is incorporated into modeling the value function in a manner to account for interactive effects between the refinements and the resources that comprise that particular model], w/ abstract, lines 2-9, shows a model that provides a demand distribution of the refinements, w/Col. 5, lines 4-11, substitution of resources);

an internal market share model, and a combined product sales model, wherein said product sales model models sales for individual products, further wherein said product sales model combines said demand group sales model and said internal market share model to produce said product sales model for individual products, [col. 15, lines 6-14, [shows an example of how the revenue coefficient is incorporated into modeling the value function in a manner to account for interactive effects between the

refinements and the resources that comprise that particular model], w/ (Col. 6, lines 12-15, shows more complicated models where a demand model which the is a nonlinear, cross-correlation between the variables of different items, which represent individual products).

Chavez et al does not specifically disclose the terms "variable generator" or "coefficient estimator", however, does disclose an engine (col. 8, lines 23-31) that produces the same results, and therefore represents the econometric engine that contains the "variable generator" and the "coefficient estimator". Therefore, the "variable generator" and the "coefficient estimator" are inherent with Chavez et al.

Chavez et al fails to disclose including a base price variable and a base volume Variable, wherein said base volume variable represents the volume of product units sold in the absence of discount pricing or other promotional effects/an imputed base price variable and an imputed base volume variable, but does disclose the generation of a model for the demand of a product in col. 53-63, and does disclose that the base parameter's values would only depend on the sales level and price in Col. 10, line 60-67.

However, Ouimet et al discloses:

including a base price variable and a base volume variable/an imputed base price variable and an imputed base volume variable wherein said base volume variable represents the volume of product units sold in the absence of discount pricing or other promotional effects, (Col. 10, lines 60-65, where the base parameters in the demand model are the amount of sales and price, here the amount of sales is the volume and

the price is the price, w/ col. 5, lines 64-67, shows that variables that affect the demand can include promotional activity). Ouimet et al discloses this limitation in an analogous art for the purpose of disclosing a one-dimensional demand model.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to include a base price variable and a base volume variable with the motivation of having variables available to formulate a base demand model.

As per claim 4, Chavez et al discloses:

Wherein the imputed variable generator receives raw data, and cleans the data, (Col. 20, lines 24-32, [filtering and then identifying variables]).

As per claim 9, Ouimet et al does not specifically disclose wherein said raw data includes missing or incomplete data sets, (Col. 11, lines 36-41, imperfect information). Garg discloses this limitation in an analogous art for the purpose of showing that firms do not usually know the exact strategy their competitors will adopt.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention for raw data to include missing or incomplete data with the motivation of realistically showing the details of raw data.

7. Claims 2, 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ouimet et al (US 6,078,893) as applied to claim 1 above, and further in view of Garg, (US 6,044,357), and further in view of Chavez et al (US 6,684,193).

As per claim 2, Ouimet discloses:

wherein said raw data includes product parameter data which is missing or incomplete, wherein said imputed variables are used to estimate said missing or

incomplete data, (Col. 11, lines 58-67, provides a way to correct for errors by a tuning process where the system reduces the number of tunable parameters, thus allowing for a way to minimize the influence of random noise in the data, in this case the inclusion of noise represents the production of incomplete data since the noise interferes with full production of data, and the tuning represents the process used for estimating the incomplete data).

Both Ouimet et al and Garg fail to disclose collecting, using the computer system, raw data; and generating, using the computer system, imputed variables from the raw data, wherein the imputed variables are used to create the product sales model, but Ouimet et al does disclose generating a sales model in Col. 6,lines 5-11.

However, Chavez et al discloses:

collecting, using the computer system, raw data; and generating, using the computer system, imputed variables from the raw data, further wherein the imputed variables are used to create the product sales model, (Col. 20, lines 24-32, [filtering and then identifying variables], w/ col. 6, lines 5-11, [shows a one-dimensional demand model which scales the amount of product sales, in this case, the variables are simply the prices {p},and the demand parameters qi scales the amount of sales and gi, which describes the sensitivity of the item to price according to product sales]). Chavez et al discloses this limitation in an analogous art for the purpose of identifying variables that go furthest in "explaining" the uncertainty in the particular variable of interest.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to collecting, using the computer system, raw data; and

generating, using the computer system, imputed variables from the raw data, wherein the imputed variables are used to create the product sales model with the motivation of producing a sales model with unused product data.

As per claim 7, Ouimet et al discloses:

including a base price variable and a base volume variable/an imputed base price variable and an imputed base volume variable wherein said base volume variable represents the volume of product units sold in the absence of discount pricing or other promotional effects, (Col. 10, lines 60-65, where the base parameters in the demand model are the amount of sales and price, here the amount of sales is the volume and the price is the price, w/ col. 5, lines 64-67, shows that variables that affect the demand can include promotional activity).

As per claim 8, Ouimet et al discloses:

Generating a moving average for base price; and generating a moving average for base volume, (Col. 6, lines 51-53, shows how values stray fro those which are expected based on the average margin for an item).

As per claim 10, Ouimet et al discloses:

defining an equivalent price for each said product using said equivalizing factor; defining equivalent units sold for each said product using said equivalizing factor; defining an equivalent base price for each said product using said equivalizing factor; defining equivalent base units sold for each said product using said equivalizing factor, (col. 5, lines 1-12, shows that the figure of merit function entered by the user, which depends upon a selected demand model is equivalent to a standard function (x

squared), and gives an example of the sales history for a particular item as it relates to the selected model, therefore any function entered by the user will have an equivalent x squared function associated with it, w/col. 6, lines 5-11, shows that price is a constant equal to the average price of the item);

creating a demand group equivalent sales model based on said equivalent price and said equivalent units sold, see above paragraph, col. 5, lines 1-12, demand model);

creating, using the computer system, an equivalent product sales model by combining said demand group equivalent sales model and said equivalent internal market share model, wherein said equivalent product sales model models equivalent sales for individual products, (Col. 6, lines 63-64, where the user selects a figure-of-merit function to be used to tune the demand model to the sales history, thereby creating a resulting demand model that conforms to the portions of the sales history data that shows a strong trend, and conform to the external market information when the corresponding portions of the sales history data show noise as shown in the abstract, lines 13-17, w/ Col. 6, lines 12-15, shows a demand model which the is a nonlinear, cross-correlation between the variables of different items, which represent individual products);

Ouimet et al does not disclose creating an equivalent internal market share model based on said equivalent price and said equivalent units sold, however does disclose defining a new market model that represents and describes how the demand parameters are expected to vary, where the demand parameters relate to the products in each demand group in col. 6, lines 17-25.

However, Garg discloses:

creating, using the computer system, an internal a market share model wherein said internal market share model determines the fraction of the internal sales of each demand group comprised by each product,, (col. 5, lines 38-41, [market share model to characterize the demand distribution for each brand, in this case, the group is represented by the brand, and the demand distribution represents a different demand resulting from sales for each product. This demand distribution will therefore vary for each brand, and therefore represents fraction of the sales]. In addition, the sales are internal since the demand groups are by a particular brand, which means that sales do not have to go to an external source for another brand). Garg discloses this limitation in an analogous art for the purpose of showing that market share models are used to set base stock levels for inventory management.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to create a market share model for each product in each demand group with the motivation of providing a representation of how the demand distribution is represented through products.

Neither Ouimet et al nor Garg disclose indexing said demand group equivalent sales model by divided said demand group equivalent sales by baseline demand group equivalent sales, but Ouimet et al does disclose defining a new market model that represents and describes how the demand parameters are expected to vary, where the demand parameters relate to the products in each demand group in col. 6, lines 17-25.

However, Chavez et al discloses:

indexing said demand group equivalent sales model by divided said demand group equivalent sales by baseline demand group equivalent sales, (Col. 10, lines 7-25, shows that the baseline demand is considered when dealing with modeled parameters). Chavez et al discloses this limitation in analogous art for the purpose of showing that baseline demand serves as a part of modeling demand.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to index the demand group equivalent sales model by divided said demand group equivalent sales by baseline demand group equivalent sales with the motivation of showing a demand model based on baseline demand.

As per claim 11, discloses:

and wherein said econometric engine utilizes a mixed-model framework wherein data across all stores and products for a selected demand group is utilized simultaneously, (abstract, lines 13-17, w/ Col. 6, lines 12-15, shows a demand model which the is a nonlinear, cross-correlation between the variables of different items, which represent individual products).

The following is obvious with Chavez since Chavez already discloses an imputed variable generator for generating imputed econometric variables in col. 8, lines 22-27, as discussed above with respect to claim 3, and an imputed consumer stockpiling variable, an imputed day of the week variable, an imputed seasonality variable, an imputed promotional variable, and an imputed cross-elasticity variable are all a part of econometric parameters, and are all commonly applied in the application of economics

in the study of problems, the analysis of data, and the development and testing of theories and models:

said imputed variable generator generates additional econometric variables including an imputed consumer stockpiling variable, an imputed day of the week variable, an imputed seasonality variable, an imputed promotional variable, and an imputed cross-elasticity variable.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention for said imputed variable generator generates additional econometric variables including an imputed consumer stockpiling variable, an imputed day of the week variable, an imputed seasonality variable, an imputed promotional variable, and an imputed cross-elasticity variable with them motivation of providing well known economic parameters for modeling demand.

Response to Arguments

8. Applicant's arguments, see remarks, filed 10/17/07, with respect to claims 1 and 3 have been fully considered and are persuasive. The 35 USC § 112 rejection of claims 1 and 3 has been withdrawn.

9. Applicant's arguments filed 10/17/07 have been fully considered but they are not persuasive.

As per claim 1, applicant argues that prior art does not disclose "[c]reating, using the computer system, a demand group sales model as a function of price wherein said demand group sales model models sales for each demand group" as claimed in Claims 1 and 3, but merely describes the demand for each item. Applicant argues that the

demand models of Ouimet et al are still generated for each item. (See column 6, lines 12-16), and appears to be no suggestion in Ouimet of determining a demand model for the entire 'group'. However, in col. 6, lines 5-11 of Ouimet et al, a one-dimensional demand model, which scales the amount of sales is shown. In addition, col. 5, lines 45-64 of Ouimet et al does shows that demand is described for each item in a given group, however, this passage also discloses that the demand for a single item usually depends upon the demand for all other items. Therefore, Ouimet et al suggests that the demand for a single item is based on, and is a representation of group demand. Therefore, when the demand-model, which is no more than a representation of the demand, is generated, this model will also represent group demand.

Applicants also argues that Garg '357 does not teach or suggest "wherein each demand group is a group of highly substitutable products" as claimed in Claims 1 and 3, and that "Garg discloses grouping of brands and not individual products , and at these groupings, as disclosed in Garg, are only limited by "feasible marketing strategies", and thus, the selection of variables by Garg does not teach or suggest selecting groups of substitutable products. However, in the Garg patent, a "Brand" is in the same category of a product since Garg is only concerned with product brands. Also, the terms "Brand" and "product" are interchangeable since according to Dictionary.com, a brand is a "A trademark or distinctive name identifying a product or a manufacturer" In addition, Col. 13, line 65, shows inventory maintenance is implemented, and therefore, product brands are replaceable through inventory stock. With respect to Col. 14, lines 55-58 and col. 15 lines 17-18 and lines 24-26, showing the selection of a first marketing mix, a

selection of another marketing mix, and then the identification of which marketing mix generates the largest profit/loss, one marketing mix for products can therefore be substituted for another marketing mix for the highest profit or loss outcome since, Garg is concerned with Brands, which represents a product as disclosed above.

In addition, applicant argues that even if one were to combine Ouimet with Garg, this combination does not teach or suggest "[c]reating... a plurality demand groups, wherein each demand group is a group of highly substitutable products" and "[c]reating... a demand group sales model as a function of price wherein said demand group sales model models sales for each demand group..." in the manner claimed in Claim 1. However this limitation is disclosed as discussed above.

In addition, applicant argues that there is insufficient evidence of record of a motivation to combine Ouimet et al. and Garg in a manner meeting the invention as recited in claim However, with respect to claim 1, KSR forecloses applicant's argument that a specific teaching is required for a finding of obviousness. *KSR*, 127 S.Ct. at 1741, 82 USPQ2d at 1396. Claim 1 recited combinations which only unite old elements with no change in their respective functions and which yield predictable results. Thus, the claimed subject matter likely would have been obvious under *KSR*.

Applicants also argue that Ouimet '893 does not teach or suggest "[c]reating, using the computer system, said product sales model by combining said demand group sales model and said internal market share model, wherein said product sales model models sales for individual products, further wherein said product sales model combines said demand group sales model and said internal market share model to produce said

product sales model for individual products" in the manner of Claims 1 and 3, and argues that Ouimet uses a combination of models to generate a unique demand model is distinct from a simple tuning process which simply adjusts the existing model to better fit a data set. However, Col. 6, lines 63-64, of Ouimet does disclose a tuning process, however this same process is used to create a resulting demand model that conforms to the portions of the sales history data that shows a strong trend by replacing the parameters of the demand model with parameters of the market model, thereby combining the results as shown in Col. 2, lines 40-54. Also, Col. 6, lines 12-15, shows a demand model can be created using a nonlinear, cross-correlation between the variables of different items, where items are represented through demand group sales models and internal market share models as described above in the preceding paragraph and in the rejection, and therefore the demand model is represented through a cross-correlation of demand group sales models and internal market share models.

As per claims 2, 6-8 and 10, these claims depend from claim 1. Examiner respectfully submit that said claims are also rejected for at least the same reasons as discussed above in reference to claim 1.

Applicant further argues that neither Chavez nor Ouimet disclose a 'demand group' or a 'demand group sales model' as recited in claim 3. However, as discussed above in the rejection, Chavez discloses this limitation in Col. 5, lines 4-11, by disclosing the substitution of resources. However Chavez et al discloses a model that provides a demand distribution of the refinements in abstract, lines 2-9, which represents modeling demand groups.

As per claims 4, 9 and 11, these claims depend from claim 3. Examiner respectfully submit that said claims are also rejected for at least the same reasons as discussed above in reference to claim 3.

As per claim 6, Applicants argue that Ouimet '893 does not teach or suggest "defining an equivalizing factor for the products of each demand group". However, in Col. 4, line 66-Col. 5, line 6, Ouimet teaches that a "figure-of-merit function" Applicant argues that a figure-of-merit function is unsuitable to be used to equivalate volumes, or sizes, of products to one another. The cited art appears to have nothing to do with equivalizing factor or demand groups as disclosed in the present invention. Instead the cited art appears to only be concerned with tuning demand models to "sales history." (See Column 5, line 5). However, this "figure-of-merit function" depends on the selected demand model, and is equivalent to a standard..." In this case this function is made equivalent to another value and is used to select models for demand groups.

As per claim 10, Applicants respectfully submit that Ouimet et al., Garg nor Chavez et al. teach or suggest even the existence of an "equivalizing factor" . As previously stated, Ouimet discloses this equivalizing factor as described above with respect to claim 6.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

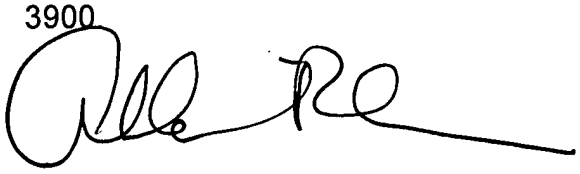
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Akiba K Robinson-Boyce whose telephone number is 571-272-6734. The examiner can normally be reached on Monday-Friday 9am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the •Patent Application Information Retrieval (PAIR) system, Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.



A. R. B.
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